THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G. ROHINI

WRIT PETITION No.26223 of 2007

Date: 11th DECEMBER, 2007

Between :
M/s. I.B.P. Co. Ltd.,
Secunderabad

.....Petitioner

And

The Assistant Commissioner, (CT), LTU,
Hyderabad and others.

.....Respondents.

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ORDER : (Per Hon'ble Smt. Justice T. Meena Kumari)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The petitioner-company filed the present writ petition seeking a writ of mandamus or any other appropriate writ or order or direction restraining the 3rd respondent from taking any coercive steps against the petitioner for colleting the balance disputed tax of Rs. 21,42,097/- out of Rs. 42,8,194/- for the period January to March, 2006, pursuant to the notice dated 20.11.2007,pending disposal of the appeal before the Sales Tax Appellalte Tribunal, Hyderabad and to pass such other suitable orders.

The brief facts of the case are that the petitioner is an assessee on the rolls of the Assistant Commissioner (CT), LTU, Secunderabad, the 1st respondent herein. While so, it was assessed under VAT for the periods from April 2005 to December, 2005 and January,2005 to March, 2006. Aggrieved by the said assessment order, petitioner preferred appeals, viz., Appeal Nos. BV/10/2006-07 and BV/14/2006-07 before the Appellate Deputy Commissioner, Punjagutta, the 2nd respondent herein.

During the pendency of the appeals, the petitioner preferred an application for stay before the 2nd respondent. The 2nd respondent, thereafter, rejected the stay application. Aggrieved, the petitioner preferred a revision before the Additional Commissioner, seeking stay of the disputed tax. However, when the 1st respondent threatened to take coercive steps against the petitioner during the pendency of the aforesaid revision, the petitioner paid 50% of the disputed tax and also filed Writ Petition No. 14993 of 2007 before this Court seeking stay of collection of the balance disputed tax pending disposal of the appeals before the 2nd respondent. This court, through order dated 16.7.2007 granted stay of collection of the disputed demand on condition of payment of 50% within four weeks and the balance demand is stayed till disposal of the appeals by the 2nd respondent. Thereafter, the 2nd respondent said to have dismissed the appeals through order dated 26.10.2007, against which, the petitioner filed second appeal before the Sales Tax Appellate Tribunal. However, it appears, consequent to the dismissal of the appeal by the 2nd respondent, the 3r d respondent has issued the impugned notice dated 20.11.2007 demanding balance amount. Assailing the same, the petitioner filed the present writ petition.

The grievance of the petitioner is that even when the appeal filed by the petitioner is pending before the Sales Tax Appellate Tribunal, Hyderabad under VAT Act, the first respondent issued the impugned notice dated 20.11.2007 directing it to pay a sum of Rs.1,03,98,444 and Rs. 42,04,194/-. He, therefore, prayed that the writ petition be allowed and the impugned notice be quashed.

Heard the learned counsel for the parties and perused the record.

There is no dispute about the fact that the petitioner has paid 50% of the disputed tax liability while preferring appeals before the Appellate Deputy Commissioner and when those appeals were dismissed by the appellate authority, the petitioner preferred further appeal before the Sales Tax Appellate Tribunal. Since the petitioner has already deposited 50% of the disputed tax liability, we feel that insistence of payment of the rest of the disputed tax during the pendency of the appeal before the Sales Tax Appellate Tribunal would not be fair and reasonable.

In the circumstances, we direct that there shall be stay of recovery of the balance disputed tax liability till the disposal of the appeal by the Sales Tax Appellate Tribunal. Further, the respondents shall not take any coercive steps till the disposal of the appeal by the Sales Tax Appellate tribunal.

The Writ Petition is disposed of accordingly. No costs.

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T. MEENA KUMARI,J

DATE: 11th December, 2007

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G. ROHINI, ,J

Note:
Furnish c.c. by 14.12.2007
B/o
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